

March 6, 2006

David L. Ryan
Town Accountant
Town of Harwich
732 Main Street
Harwich, MA 02645

Re: Community Preservation Borrowing
Our File No. 2006-50

Dear Mr. Ryan:

This is in response to your letter regarding the ability of the town to borrow for community preservation purposes. Specifically, you asked about any limitations on the amount that may be borrowed.

As explained in the attached opinion we issued in 2004, we believe that the amount of debt a municipality may authorize under G.L. c. 44B for community preservation purposes is limited in amount to that which is payable from estimated surcharge revenues over the life of the borrowings.

If you have any further questions, please do not hesitate to contact me again.

Very truly yours,

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC
Enclosure: Opinion 2004-464



December 6, 2004

Colleen Wilkins
Finance Director
Town of Lincoln
16 Lincoln Road
Lincoln MA 01773

Re: Community Preservation Act Borrowings
Our File No. 2004-464

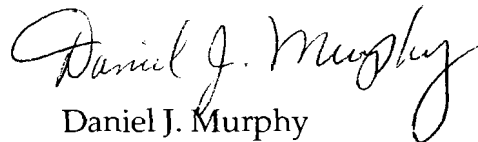
Dear Ms. Wilkins:

This responds to your letter about borrowings authorized under the Community Preservation Act (CPA). Specifically, you asked whether such borrowings are limited to amounts that can be repaid by future local surcharge revenues.

The CPA authorizes communities to "issue ... general obligation bonds or notes in anticipation of revenue raised" by assessing a property tax surcharge. G.L. c. 44B §11. In our opinion, the language "in anticipation" of surcharge revenue is intended by the legislature to limit the amount a community may borrow under c. 44B for community preservation purposes. We do not think a community may issue such debt unless the annual debt service on that particular borrowing, and any previously authorized community preservation borrowings, can be accommodated within the annual surcharge revenues the community can reasonably anticipate raising over the borrowing term at that time. If for some unforeseen reason the monies raised from annual surcharges alone should later prove insufficient, however, the debt service is to be paid from any other fund monies available for that purpose.

If you have any further questions, please do not hesitate to contact me again.

Very truly yours,


Daniel J. Murphy
Chief, Property Tax Bureau

DJM:KC